

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DENNIS MARTEL,

Plaintiff,

No. CIV S-04-0014 DFL PAN P

vs.

R.L. ANDREASEN, et al.,

Defendants.

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On July 13, 2006, plaintiff filed a motion for appointment of counsel. The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In the present case, the court does not find the required exceptional circumstances. Plaintiff's motion for the appointment of counsel will therefore be denied.

On July 19, 2006, defendants filed a request for an extension of time to complete discovery on the claims against defendant Baughman, and for an extension of time to file

1 dispositive motions. Pursuant to the scheduling order filed January 27, 2006, discovery was to
2 be completed by May 26, 2006, and dispositive motions were due by July 21, 2006. The record
3 reflects that a request for waiver of service of process was sent to defendant Baughman on May
4 23, 2006, after expiration of time set for completion of discovery, and that his answer to the
5 amended complaint was timely filed on July 18, 2006. Good cause appearing, defendants'
6 request will be granted and the court will separately issue a revised scheduling order for this
7 action.

8 In accordance with the above, IT IS HEREBY ORDERED that:

- 9 1. Plaintiff's July 13, 2006 motion for the appointment of counsel is denied;
10 2. Defendants' July 19, 2006 request for an extension of time is granted; and
11 3. A revised scheduling order for this action will issue forthwith.

12 DATED: July 27, 2006.

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15 UNITED STATES MAGISTRATE JUDGE

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